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October 24, 2005

Tam Doduc, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: California Ocean Plan, Areas of Special Biological Significance (ASBS)
Waste Discharge Prohibition

Dear Chair Doduc and Members of the Board:

The State Water Resources Control Board (State Board) is facing a crucial and far-reaching decision with respect to its management of California's Areas of Special Biological Significance (ASBSs). ASBSs are home to the State's most unique and sensitive marine communities, each one possessing complex yet fragile ecosystems. The Ocean Plan recognizes the importance of affording these areas the utmost protection: "Waste shall not be discharged to areas designated as being of special biological significance."¹

Yet there are more than 1,650 illegal discharges into ASBSs, many of which are related to nonpoint source pollution and stormwater runoff.² Although the State Board has found stormwater runoff to be greatest source of coastal water pollution, the State Board has been considering a general statewide exception to the discharge prohibition for these polluters. On the heels of its discovery of the many violations to the Ocean Plan, a statewide exception would suggest that the State Board is not willing to take the waste discharge prohibition seriously. Equally important, a statewide exception establishes a bad precedent that weakens coastal protection in the face of pressure from dischargers. The statewide general exception would authorize the discharge of the worst category of pollution—stormwater runoff—into the State's most fragile ecosystems—ASBSs.

In this connection, at the last workshop in Monterey, we proposed a practical framework that would allow dischargers to come into compliance with the Ocean Plan while still providing the strong protection of ASBSs that California envisions. Below, we elaborate on the proposed framework in three sections: 1) Fundamental Principles Needed to Protect ASBSs; 2) Practical Framework for Protecting ASBSs; and 3) Effectiveness of Best Management Practices and Control Measures.

¹ Ocean Plan at III.E.1.

² See Southern California Coastal Water Research Project, *Final Report: Discharges into State Water Quality Protection Areas* (July 2003).